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EXAMINER

SHRADER, LAWRENCE J

ART UNIT	PAPER NUMBER
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2193

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,866

Applicant(s)

DAVIS ET AL.

Examiner

Lawrence Shrader

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4 - 12, and 14 - 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 - 12, and 14 - 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the amendment filed by the Applicant on 8/15/2005.
2. The arguments have been fully considered, but they are not convincing. Claims 1, 2, 4 – 12, and 14 – 34 remain rejected; and new claims 35 – 39 are also rejected. Claims 3 and 13 have been cancelled as requested by the Applicant (n.b., the remarks section clearly indicates that claim 3 is to be cancelled, but claim 3 is presented in the claims section. Examiner assumes that claim 3 is to be cancelled according to the remarks section).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4 – 7; 8 – 12; 14 – 21; 22, 23, 24 – 27; 28; and 29 – 34 are rejected under 35 U.S.C. 102(e) as being anticipated by art of record Collins, III et al., U.S. Patent 6,286,041 (hereinafter referred to as Collins).

In regard to claim 1:

Collins discloses a data processing system having software for installation comprising:

"a first computer configured to receive the software, the first computer being newly added to the data processing system; and"

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; e.g., Figure 1). It is disclosed that the server computer automatically determines when to install software on the target (a target computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is new or old since every computer must have software to operate.

"a second computer configured to automatically determine when the first computer is newly added to the data processing system, the second computer being configured to automatically install the software onto the first computer in response to the second computer determining that the first computer is newly added to the data processing system and when it is determined to install the software onto the first computer wherein the second computer is heterogeneous with respect to the first computer."

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23).

In regard to claims 2, and 4 - 7, incorporating the rejection of claim 1:

"...wherein the software is a version of a program, and wherein the second computer includes a detection component for detecting when the version of the program is outdated and for installing a new version of the program onto the first computer."

"...wherein the first computer has an associated first natural language and wherein the second computer has an associated natural language."

"...wherein the first computer executes an operating system of a first type and wherein the second computer executes an operating system of a second type."

Collins discloses a system for software distribution in a system with a heterogeneous set of computers having different hardware and software configurations. The limitations of claims 2 – 7 are inherent or at least implied in the disclosed system having the criteria-dependent feature disclosed at column 8, lines 7 – 23.

In regard to claim 8:

"a first computer having an associated natural language and a processor running an operating system, the first computer being newly added to the data processing system;"

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; e.g., Figure 1). It is disclosed that the server computer automatically determines when to install software on the target (a target computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is new or old since every computer must have software to operate.

"a second computer, heterogeneous with respect to the first computer, having a first component configured to store editions of software, a second component configured to automatically determine the natural language associated with the first computer, the operating system running on the first computer and the type of processor in the first computer and a third component configured to control installation of one edition of the software onto the first computer that is particular to the type of processor in the first computer, the operating system running on the first computer and the natural language associated with the first computer, wherein the second computer installs the edition of the software by utilizing commands that are suitable for the operating system running on the first computer, wherein the second computer comprises a detection component configured to detect that the first computer is newly added and to automatically install

the edition of the software in response to detecting that the first computer is newly added."

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is new or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23).

In regard to claim 9, incorporating the rejection of claim 8:

"...wherein the second computer is configured to start the software."

See column 2, lines 48 – 57.

In regard to claim 10, incorporating the rejection of claim 8:

"...wherein the first computer is associated with a first site and the second computer is associated with a second site."

See Figure 1.

In regard to claim 11, incorporating the rejection of claim 10:

"...wherein the second computer manages the second site."

See column 1, lines 40 – 54.

In regard to claim 12, incorporating the rejection of claim 8:

"...wherein the second computer comprises a helper server, the helper server being configured to install the software on the first computer."

See column 5, lines 21 – 34.

In regard to claim 14:

"a first computer configured to receive one or more application programs, the first computer forming part of a first site comprising a plurality of computers connected together by a first area network;"

See Collins Figures 1 – 3.

"a second computer associated with a second site comprising a plurality of computers connected together by a second area network, the second computer being configured to store the one or more application programs and manage the delivery of the one or more software to the first computer by automatically determining when the first computer is newly added to the data processing system and controlling the automatic installation of the software onto the first computer when it is determined by the second computer that the first computer is newly added to the data processing system."

See Collins Figures 1 – 3 for networking functionality. Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it if it is electrically connected to the network (column 2, lines 17 – 20). The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23).

In regard to claim 15, incorporating the rejection of claim 14:

"...wherein the second computer is configured to start the software."

See column 2, lines 48 – 57.

In regard to claim 16, incorporating the rejection of claim 14:

"...wherein the second computer comprises a helper server, the helper server being configured to install the software on the first computer."

See column 5, lines 21 – 34.

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In regard to claim 17, incorporating the rejection of claim 14:

“...wherein the second computer comprises a detection component configured to detect the first computer.”

When the first computer logs on to the second computer, the second computer detects the first computer (column 2, lines 48 – 57).

In regard to claim 18 – 21, incorporating the rejection of claim 14:

“...wherein the first computer has an associated first natural language and wherein the second computer has an associated natural language.”

“...wherein the first computer executes an operating, system of a first type and wherein the second computer executes all operating system of a second type.”

“...wherein the first computer has a processor of a first type and wherein the second computer has a processor of a second type.”

“... wherein the first computer executes a network operating system of a first type and wherein the second computer executes a network operating system of a second type.”

Collins discloses a system for software distribution in a system with a heterogeneous set of computers having different hardware and software configurations. The limitations of claims 2 – 7 are inherent or at least implied in the disclosed system having the criteria-dependent feature disclosed at column 8, lines 7 – 23.

In regard to claim 22:

“automatically determining when a first computer is newly added to the data processing system, the first computer comprising a natural language and a processor running an operating system;”

"identifying a stored edition of software, at a second computer, that is particular to the natural language, the processor, and the functioning operating system of the first computer;"

See Collins Figures 1 – 3 for networking functionality. Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it if it is electrically connected to the network (column 2, lines 17 – 20). Collins discloses a system for software distribution in a system with a heterogeneous set of computers having different hardware and software configurations (Abstract and column 8, lines 7 – 23). The limitations of claims 2 – 7 are inherent or at least implied in the disclosed system having the criteria-dependent feature disclosed at column 8, lines 7 – 23.

"identifying stored preferences controlling installing the stored edition of the software onto the first computer; and"

"automatically installing only the edition of the software onto the first computer, directly from the second computer, utilizing commands that are suitable for the functioning operating system running on the first computer and based upon the stored preferences in response to automatically determining when the first computer is newly added to the data processing system."

See Collins Figure 7 and column 8, lines 7 – 23 concerning criteria values.

In regard to claims 23 and 24, incorporating the rejection of claim 22:

"...further comprising, automatically starting, by the second computer, the installed edition of the software on the first computer."

"...further comprising delivering the edition of the software to a third computer, the third computer installing only the edition of the software onto the first computer directly

from the third computer utilizing commands that are suitable for the operating system running on the first computer and based upon the stored preferences."

See column 2, lines 48 – 57 for automatically starting; and Figure 7 and column 8, lines 7 – 23 concerning criteria values to determine code suitable for a particular configuration.

In regard to claim 25, incorporating the rejection of claim 22:

"...wherein determining when the first computer is added to the data processing system occurs periodically."

Scheduling is disclosed at column 2, lines 48 – 57; column 5, lines 24 – 27.

In regard to claim 26, incorporating the rejection of claim 22:

"...wherein determining, when the first computer is added to the data processing system occurs in accordance with a predetermined amount of time set by an administrator of the data processing system."

Scheduling is disclosed at column 2, lines 48 – 57; column 5, lines 24 – 27.

In regard to claim 27, incorporating the rejection of claim 22:

"...wherein determining when the first computer is added to the data processing system occurs in accordance with an instruction of an administrator."

The scheduling algorithm inherently involves an act or an instruction of an administrator.

In regard to claim 28:

"a step for determining, remote from the first computer, when the first computer is newly added to the data processing system, the first computer comprising a natural language and a processor running a functioning operating system; "

"a step for receiving at the first computer an edition of software that is particular to the natural language, the processor, and the operating system of the first computer; "

“a step for automatically installing onto the first computer only the edition of the software, under the control of a second computer, utilizing commands that are suitable for the operating system running on the first computer in response to determining when the first computer is newly added to the data processing system.”

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software. If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is new or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23).

Claim 29 (a computer program product): it is rejected for the same reasons put forth in the rejection of claim 22 (a corresponding DP system).

Claim 30 (a computer program product) incorporating the rejection of claim 29: it is rejected for the same reasons put forth in the rejection of claim 23 (a corresponding DP system).

Claim 31 (a computer program product) incorporating the rejection of claim 29: it is rejected for the same reasons put forth in the rejection of claim 24 (a corresponding DP system).

Claim 32 (a computer program product) incorporating the rejection of claim 29: it is rejected for the same reasons put forth in the rejection of claim 25 (a corresponding DP system).

Claim 33 (a computer program product) incorporating the rejection of claim 29: it is rejected for the same reasons put forth in the rejection of claim 26 (a corresponding DP system).

Claim 34 (a computer program product) incorporating the rejection of claim 29: it is rejected for the same reasons put forth in the rejection of claim 27 (a corresponding DP system).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 35 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over art of record Collins, III et al., U.S. Patent 6,286,041 in view of Saulpaugh et al., U.S. Patent 5,630,076 (hereinafter referred to as Saulpaugh).

In regard to claim 35, incorporating the rejection of claim 1:

"...wherein the second computer is configured to automatically determine when the first computer is added to the data processing system by comparing a list of computers being managed by the second computer to a previously generated list of computers being managed by the second computer."

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23), but does not explicitly disclose comparing a list of computers being managed to a previously generated list of computers being managed. However, Saulpaugh discloses a method of automatically correlating a device to its appropriate software (driver) by comparing a list of devices to a previously generated list of devices being managed (column 2, lines 32 – 58). Therefore, it would have

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been obvious to one skilled in the art at the time the invention was made to combine the teaching of Collins to automatically determine when to install software of a new computer with the well known method of correlating a device to its appropriate software (driver) by comparing a list of devices being managed to a previously generated list of devices being managed as taught by Saulpaugh to properly assigning a device to its driver by using an available candidate list as taught at column 2, lines 1 – 14.

In regard to claim 36, incorporating the rejection of claim 8:

“...wherein the detection component is configured to detect that the first computer is newly added by comparing a list of computers being managed by the second computer to a previously generated list of computers being managed by the second computer.”

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23), but does not explicitly disclose comparing a list of computers being managed to a previously generated list of computers being managed. However, Saulpaugh discloses a method of automatically correlating a device to its appropriate software (driver) by comparing a list of devices to a previously generated list of devices being managed (column 2, lines 32 – 58). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the teaching of Collins to automatically determine when to install software of a new computer with the well known method of correlating a device to its appropriate software (driver) by comparing a list of

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devices being managed to a previously generated list of devices being managed as taught by Saulpaugh to properly assigning a device to its driver by using an available candidate list as taught at column 2, lines 1 – 14.

In regard to claim 37, incorporating the rejection of claim 14:

“...wherein automatically determining when the first computer is add(ed) to the data processing system comprises comparing a list of computers being managed by the second computer to a previously generated list of computers being managed by the second computer.”

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23), but does not explicitly disclose comparing a list of computers being managed to a previously generated list of computers being managed. However, Saulpaugh discloses a method of automatically correlating a device to its appropriate software (driver) by comparing a list of devices to a previously generated list of devices being managed (column 2, lines 32 – 58). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the teaching of Collins to automatically determine when to install software of a new computer with the well known method of correlating a device to its appropriate software (driver) by comparing a list of devices being managed to a previously generated list of devices being managed as taught by Saulpaugh to properly assigning a device to its driver by using an available candidate list as taught at column 2, lines 1 – 14.

In regard to claim 38, incorporating the rejection of claim 22:

"...wherein automatically determining when a first computer is added to the data processing system comprises comparing a list of computers being managed to a previously generated list of computers being managed."

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23), but does not explicitly disclose comparing a list of computers being managed to a previously generated list of computers being managed. However, Saulpaugh discloses a method of automatically correlating a device to its appropriate software (driver) by comparing a list of devices to a previously generated list of devices being managed (column 2, lines 32 – 58). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the teaching of Collins to automatically determine when to install software of a new computer with the well known method of correlating a device to its appropriate software (driver) by comparing a list of devices being managed to a previously generated list of devices being managed as taught by Saulpaugh to properly assigning a device to its driver by using an available candidate list as taught at column 2, lines 1 – 14.

In regard to claim 39, incorporating the rejection of claim 29:

"...wherein automatically determining when a first computer is added to the data processing system comprises comparing a list of computers being managed to a previously generated list of computers being managed."

Collins discloses a first computer configured to receive software (column 1, lines 40 – 54; column 2, lines 48 – 57). It is disclosed that the server computer automatically determines when to install software on the target (a first computer). If a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. The Collins patent discloses heterogeneous target computer systems (Abstract and column 8, lines 7 - 23), but does not explicitly disclose comparing a list of computers being managed to a previously generated list of computers being managed. However, Saulpaugh discloses a method of automatically correlating a device to its appropriate software (driver) by comparing a list of devices to a previously generated list of devices being managed (column 2, lines 32 – 58). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the teaching of Collins to automatically determine when to install software of a new computer with the well known method of correlating a device to its appropriate software (driver) by comparing a list of devices being managed to a previously generated list of devices being managed as taught by Saulpaugh to properly assigning a device to its driver by using an available candidate list as taught at column 2, lines 1 – 14.

Response to Arguments

7. Applicant's arguments filed on 8/15/2005 have been fully considered but they are not persuasive.

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The Applicant has argued:

Applicants respectfully submit that the claims are distinguishable over the art of record. In particular, the claims of the present application recite elements that are neither anticipated by nor made obvious by the art of record. For example, Collins fails to disclose, among other things a method that includes determining that a first computer is newly added to a system. The cited disclosure of Collins also fails to disclose or suggest such a method that further includes having a second computer automatically install software on the first computer in response to determining that the first computer is newly added to the system, as claimed.

While Collins is generally directed to a system that transfers and installs software from one digital computer to another through a network (See e.g. Abstract), the system disclosed by Collins transfers software to target machines without first detecting when a system is newly added or automatically installing the software in response to said detection. Col. 1, lines 48-49.

Examiner's response:

Collins patent discloses heterogeneous target computer systems, and if a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate. See (Abstract and column 8, lines 7 - 23).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Shrader whose telephone number is (703) 305-8046. The examiner can normally be reached on M-F 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 305-9662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lawrence Shrader
Examiner
Art Unit 2124

13 October 2005


KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100